IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3472 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

ASHAPURI VIJAY SAW MILL
Versus
MAINI TRADERS

==========

Appearance :
MR PN BAVISHI for Appellant
None for Respondent

==========

CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 19/10/2005

ORAL JUDGMENT

1.This First Appeal is preferred against the judgment and decree passed by learned Civil Judge (S.D.), Gandhidham, Kutch on 30th March, 1998 in Special Civil Suit No.276/1995, by original plaintiff against the original defendant who is respondent herein.

2.The valuation of the suit has been fixed at Rs.1,01,560/- by the original plaintiff.

3.With coming into force the Gujarat Civil Courts Act, 2005 on 9th May, 2005, appeals from the decrees and orders passed by a Court of Senior Civil Judge in original suits and proceedings of civil nature shall, when such appeals are allowed by law, would lie to the Court of District Judge of the District when the amount or value of the subject matter of the original suit or proceedings is fixed less than Rs.5 Lakhs or such other sum as the High Court may, from time to time, specify according to Section 15(1)(a) of the said Act.

4.Vide Sub-Section (4) of Section 15 of the Gujarat Civil Courts Act, 2005, the provisions of the Act would apply to all decrees and orders made after the appointed date irrespective of the fact that when the suits or proceedings in which they are made were instituted before or after the appointed date. Further vide Sub-Section (3) of Section 30 of the said Act, it is provided that notwithstanding anything contained in Sub-Section (1) of Section 30 or any other provisions of the said Act or in the enactment repealed by Sub-Section (1) or in any other provisions having the force of law, such suits, appeals and proceedings pending before any Court, which under the said Act have to be instituted or connected in another Court, shall, on the appointed day, stand transferred to such other Court and shall be continued and disposed of by such other Court in accordance with law as if such suit and proceedings had

been instituted or commenced in such other Court under the said Act.

5.In the similar circumstances, in the matter of JAYRANCHHOD PIYAT SAHAKARI MANDALI LTD Vs. GUJARAT ELECTRICITY BOARD, (First Appeal No.2820 of 2004), this Court [Coram: A.L.Dave,J.] vide order dated 12th July, 2005 took a view that by virtue of Sub-Section (4) of Section 30 of the said Act, the effect of the provision was that an appeal pending before this Court, subject matter of which was valued at less than Rs.5 lakhs stands transferred to District Court if appeal had arisen out of the judgment and decree of a Senior Civil Judge. The Court also discussed the effect of Sub-Section (4) of Section 15 of the said Act, in para-5.1 of the said order. Thereafter, many of such appeals were transferred by this Court to appropriate Court.

6.Undoubtedly, in the present appeal, the suit is valued at less than Rs.5 lakhs and the appeal

has arisen from the judgment and decree of a Senior Civil Judge.

7. In this view of the matter, this First Appeal stands transferred to concerned Court of District Judge for disposal in accordance with law. The Registry of this Court shall take necessary steps immediately for transfer of this appeal as well as Record & Proceedings of the Trial Court and any other papers connected with this First Appeal, if lying before this Court. So fas as this Court is concerned, this First Appeal stands disposed of.

[J. R. VORA,J.]

vijay